

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA)
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 v.)
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 MARKO BOSKIC)
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Case No. 04-CR-10298-DPW

**DEFENDANT'S MOTION FOR AN OFFER OF PROOF OR VOIR DIRE
CONCERNING THE PREPARATION OF INS FORM I-485: APPLICATION TO
REGISTER PERMANENT RESIDENCE STATUS**

Defendant Marko Boskic hereby moves this Court to order the government to make an offer of proof or to produce evidence at a voir dire concerning the preparation of the I-485 form at International Rescue Committee on April 5, 2001. Until the government has laid the proper foundation for the admissibility of the document, the government should not be allowed to display the document to the jury or discuss its contents.

In support of this motion, defendant states:

1. It is the government's contention that defendant made two false statements on INS form I-485: Application to Register Permanent Residence or Adjust Status. (A copy of the form is appended hereto as Attachment A). The form was filled out in English at the International Rescue Committee in Boston, MA on April 5, 2001.

2. The answers to the questions on the form are handwritten

and the handwriting is very clearly not the defendant's handwriting. If the government is not willing to stipulate to this, defendant will produce the testimony of handwriting expert Nancy McCann to testify that the handwritten answers to the questions are not in defendant's handwriting.

3. The government has produced no information in discovery concerning how the form was prepared, who if anyone translated the questions for defendant, how defendant answered the questions, who translated his answers into English, and who wrote the answers in English on the form.

4. Without this basic foundation evidence, the form and its contents are inadmissible. United States v. Rengifo, 789 F. 2d 975, 983 (1st Cir. 1986) (Transcripts of wiretapped telephone conversations translated from Spanish into English admissible where "the qualifications of the government's translators and the word-for-word accuracy of the transcripts were explored in depth

at trial"). Unlike Rengifo, where the translation was merely a piece of evidence, here, the translated document is the central feature of the case -- i.e. the government must ascribe certain meanings to the questions and answers in order to prove the falsity of the responses.

Respectfully submitted,

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